

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

JOSEPH DIFLUMERA  
Defendant

) Criminal Number: 04-40002 (NMG)  
)  
) Violations:  
)  
) 18 U.S.C. §§ 1951  
) 1341, 1343, 1952 and 2 -  
) Interference with Commerce  
) By Extortion (Hobbs Act),  
) Mail and Wire Fraud, and  
) Interstate Travel In Aid of  
) Racketeering.

SUPERSEDING INDICTMENT

COUNT ONE: (Title 18, United States Code, Section 1951 --  
Hobbs Act Extortion)

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester  
County and elsewhere in the District of Massachusetts, the  
defendant,

JOSEPH DIFLUMERA,

and others did knowingly obstruct, delay and affect commerce, as  
that term is defined in Title 18, United States Code, Section  
1951(b) (3), and the movement of articles and commodities in  
commerce, by extortion, as that term is defined in Title 18,  
United States Code, Section 1951(b) (2), in that he did attempt to  
and did obtain property, to wit, in excess of \$1,000,000 from  
Victory Distributors, Inc. with its consent, which consent had  
been induced through the wrongful use of actual and threatened

force, violence and fear, including fear of economic harm.

In violation of Title 18, United States Code, Sections 1951 and 2.

COUNTS TWO through FIVE: (Title 18, United States Code, Section 1341 -- Mail Fraud)

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester County and elsewhere in the District of Massachusetts, the defendant,

JOSEPH DIFLUMERA,

and others, knowingly devised a scheme and artifice to defraud Victory Distributors Inc. and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises by falsely stating to officers of Company ABC that he could and would influence the United Food and Commercial Workers Union and Local 1445 so that said labor unions would not seek to organize the workers at Victory Distributors Inc.

For the purpose of executing the scheme and artifice, and attempting to do so, in the District of Massachusetts and elsewhere, the defendant

JOSEPH DIFLUMERA

knowingly placed in a post office and authorized depository for mail matter and caused to be delivered by mail, matters and things whatever to be sent and delivered by the Postal Service, as set forth below:

<u>Count</u>	<u>Approx. Date</u>	<u>Subject Matter</u>
2	4/18/03	Letter from defendant to Victory Distributors Inc.

<u>Count</u>	<u>Approx. Date</u>	<u>Subject Matter</u>
3	6/26/03	Victory Distributors Inc. letter and two checks payable to defendant.
4	7/25/03	Copy of letter from "Tom" to defendant.
5	8/26/03	Check from Victory Distributors Inc. to defendant.

In violation of Title 18, United States Code, Sections 1341  
and 2.

**COUNT SIX: (Title 18, United States Code, Section 1343 -  
Wire Fraud)**

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester County and elsewhere in the District of Massachusetts, the defendant,

JOSEPH DIFLUMERA,

and others, knowingly devised a scheme and artifice to defraud Victory Distributors Inc. and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises by falsely stating to officers of Victory Distributors Inc that he could and would influence the United Food and Commercial Workers Union and Local 1445 so that said labor unions would not seek to organize the workers at Victory Distributors Inc.

For the purpose of executing the scheme and artifice, and attempting to do so, in the District of Massachusetts and elsewhere, the defendant

JOSEPH DIFLUMERA

knowingly transmitted and caused to be transmitted by means of wire communication in interstate commerce, any sounds, as set forth below:

<u>Count</u>	<u>Approx. Date</u>	<u>Subject Matter</u>
6	8/26/03	Telephone conversation from Massachusetts to Florida concerning payment of monies to Defendant.

In violation of Title 18, United States Code, Sections 1343  
and 2.

COUNTS SEVEN through TEN : (Title 18, United States Code, Section 1952 -- Interstate Travel in Aid of Racketeering Enterprises)

The Grand Jury charges that:

Between January 1989 and September 8, 2003, in Worcester County and elsewhere in the District of Massachusetts, the defendant,

JOSEPH DIFLUMERA,

and others did knowingly travel in interstate commerce from Florida to Massachusetts to receive money from Victory Distributors Inc., with its consent, which consent had been induced through the wrongful use of actual and threatened force, violence and fear, including threats to cause labor problems and other economic harm, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, that is, extortion in violation of the laws of Massachusetts, namely Chapter 265, Massachusetts General Laws, Section 25, and of Title 18, United States Code, Section 1951, and did thereafter perform and cause the performance of acts to promote, manage, establish and carry on, and facilitate the promotion, management, establishment and carrying on of said unlawful activity.

<u>Count</u>	<u>Approx. Date</u>	<u>Travel From/To</u>
7	6/20/03	Florida to Boston
8	7/03/03	Florida to Boston
9	8/12/03	Florida to Boston

<u>Count</u>	<u>Approx. Date</u>	<u>Travel From/To</u>
10	9/04/03	Florida to Boston

In violation of Title 18, United States Code, Sections  
1952(a)(3) and 2.

NOTICE OF ADDITIONAL FACTORS

THE GRAND JURY FURTHER CHARGES THAT:

1. In committing the offense charged in Count One of this indictment, defendant JOSEPH DIFLUMERA
  - a. Committed an offense in which the loss exceeded \$800,000 as described in U.S.S.G. § 2B3.1(b)(7)(E).
  - b. Committed an offense involving an express and implied threat of death and bodily injury, as described in U.S.S.G. § 2B3.2(b)(1).

**FORFEITURE ALLEGATIONS**

**(18 U.S.C. § 981 and 28 U.S.C. § 2461(c))**

1. As a result of the offenses in violation of 18 U.S.C. § 1951 (Hobbs Act extortion) charged in Count one of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

2. As a result of the offenses in violation of 18 U.S.C. § 1341 (mail fraud) charged in Counts two through five of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

3. As a result of the offenses in violation of 18 U.S.C. § 1343 (wire fraud) charged in Count six of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

4. As a result of the offenses in violation of 18 U.S.C. § 1952 (interstate travel in aid of racketeering) charged in Counts

seven through ten of this Indictment, the defendant,

JOSEPH DIFLUMERA

shall forfeit all property, real and personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense.

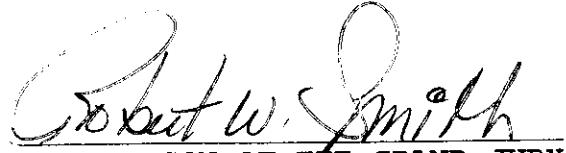
5. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Section 982 and Title 28, United States Code, Section 2461(c).

A TRUE BILL

  
\_\_\_\_\_  
ROBERT W. SMITH  
FOREPERSON OF THE GRAND JURY

Laura Kaplan

LAURA J. KAPLAN  
Assistant U.S. Attorney

DISTRICT OF MASSACHUSETTS; November 4, 2004. @ 11:55AM

Returned into the District Court by the Grand Jurors  
and filed.

  
\_\_\_\_\_  
Rex Brown  
Deputy Clerk

Criminal Case Cover SheetU.S. District Court - District of MassachusettsPlace of Offense: Category No. II Investigating Agency DOLCity LEOMINSTER**Related Case Information:**County WORCESTERSuperseding Ind./ Inf. X Case No. 04-40002 (NMG)Same Defendant x New Defendant \_\_\_\_\_Magistrate Judge Case Number 03-1719(CBS)

Search Warrant Case Number \_\_\_\_\_

R 20/R 40 from District of \_\_\_\_\_

**Defendant Information:**Defendant Name Joseph DiFlumera Juvenile:  Yes  No

Alias Name \_\_\_\_\_

Address 24 Oak Brook Dr., Ormond Beach, FloridaBirthdate: 9/04/34 SS # 013-26-7116 Sex: M Race: white Nationalit USDefense Counsel if known: Paul V. Kelly, Esq. Address 175 Federal St., Boston, MA

Bar Number \_\_\_\_\_

**U.S. Attorney Information:**AUSA Laura J. Kaplan Bar Number if applicable \_\_\_\_\_Interpreter: Yes  No List language and/or dialect: \_\_\_\_\_Matter to be SEALED:  Yes  No Warrant Requested  Regular Process  In Custody**Location Status:**Arrest Date 9/ 8/03

Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_

 Already in State Custody at \_\_\_\_\_  Serving Sentence  Awaiting Trial On Pretrial Release: Ordered by: J. Swartwood on 9/08/03Charging Document:  Complaint  Indictment  InformationTotal # of Counts:  Petty \_\_\_\_\_  Misdemeanor \_\_\_\_\_  Felony 4 \_\_\_\_\_

Continue on Page 2 for Entry of U.S.C. Citations

 I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: November 4, 2004Signature of AUSA: Laura Kaplan

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Joseph DiFlumera**U.S.C. Citations**

<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	_____	_____
Set 2	<u>18 U.S.C. §1951</u>	<u>Hobbs Act Extortion</u> <u>1</u>
Set 3	<u>18 U.S.C. §1952</u>	<u>Interstate Travel in Aid of Racketeering</u> <u>2-5</u>
Set 4	_____	_____
Set 5	_____	_____
Set 6	_____	_____
Set 7	_____	_____
Set 8	_____	_____
Set 9	_____	_____
Set 10	_____	_____
Set 11	_____	_____
Set 12	_____	_____
Set 13	_____	_____
Set 14	_____	_____
Set 15	_____	_____
<b>ADDITIONAL INFORMATION:</b> _____		
_____		
_____		
_____		